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COPY MAILED

DEC 17 2008

In re Application of :
Walsh :
Application No. 10/797,572 : **ON PETITION**
Filed: March 11, 2004 :
Attorney Docket No. 16240.M293 :
For: METHOD OF FORMING A MOLDED
PLYWOOD DOOR SKIN, MOLDED
PLYWOOD DOOR SKIN, AND DOOR
MANUFACTURED THEREWITH

This is a decision on the petition entitled, "PETITION FOR WITHDRAWAL OF NOTICE OF ABANDONMENT UNDER 37 CFR 1.181 OR, IN THE ALTERNATE, PETITION FOR REVIVAL UNDER 37 C.F.R. 1.137(b)," filed November 7, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Pursuant to petitioner's authorization, deposit account no. 50-0548 will be charged the required \$810.00 Rule 137(b) petition to revive fee.

This application became abandoned for failure to timely respond to the final Office action mailed February 27, 2008, which set an extendable three month period for reply. Having received no extensions of time under 37 CFR 1.136(a) and no reply, this application became abandoned on May 28, 2008. A Notice of Abandonment was mailed on October 1, 2008.

Petitioner alleges that the February 27, 2008 final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

A review of the record indicates no irregularity in the mailing of the February 27, 2008 final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.


Petitioner has not provided adequate evidence of non-receipt. The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Applicant has submitted a RCE and required fee and amendment in reply to the February 27, 2008 final Office action, a proper statement of the unintentional nature of the delay in responding to the February 27, 2008 final Office action, and the petition fee.

The petition under 37 CFR 1.137(b) is **granted**.

After the mailing of this decision, the application will be referred to Technology Center A.U. 3635 for consideration of the RCE and amendment filed on November 7, 2008.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).